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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ROBERT PEZZOLLA,	:	<b>SUPERIOR COURT OF NEW JERSEY</b>
Plaintiff,	:	<b>LAW DIVISION, ESSEX COUNTY</b>
	:	
vs.	:	Docket No.: ESX-L-6298-17
	:	
DAVID SANDERS, A&S SERVICES	:	Civil Action No.
GROUP, LLC, et al.,	:	
	:	<b><u>NOTICE OF REMOVAL</u></b>
Defendants.	:	
	:	<b>Document Filed Electronically</b>

**NOTICE OF REMOVAL BY DEFENDANTS DAVID SANDERS  
AND A&S SERVICES GROUP, LLC**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, David Sanders and A&S Services Group, LLC ("Defendants") hereby remove to this Court the above-captioned matter, which is pending in the Superior Court of New Jersey, Law Division, Essex County, under Docket No. ESX-L-6298-17. In support of this Notice of Removal, Defendants state the following:

**NATURE OF THE ACTION**

1. This is a personal injury action filed on August 31, 2017, by Plaintiff Robert Pezzolla ("Plaintiff"), a citizen of New Jersey. Plaintiff alleges he suffered multiple and severe personal injuries due to a collision between his motor vehicle and a commercial vehicle owned by A&S Services Group, LLC, and operated by David Sanders. Plaintiff filed his Complaint

against Defendants in the Superior Court of New Jersey, Essex County. As set forth below, this case is removable to federal court because Plaintiff, who is a citizen of New Jersey, is diverse from David Sanders, who is a citizen of Pennsylvania and A&S Services Group, LLC, which is a citizen of Pennsylvania and Delaware, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Defendants accordingly provide notice of the removal of this action to federal court.

### **COMPLETE DIVERSITY**

2. Upon information and belief, at the time this action was filed and at all times since, Plaintiff was and is a citizen of New Jersey. (*See* paragraph 1 of the Complaint, attached hereto as Ex. A.)

3. At the time this lawsuit was filed and at all times since, David Sanders was and is a citizen of Pennsylvania.

4. At the time this lawsuit was filed and at all times since, A&S Services Group, LLC, was and is a corporation organized under the laws of the State of Delaware with its principal place of business in Pennsylvania. Therefore, at the time this action was filed and at all times since, A&S Services Group, LLC, was a citizen of Delaware and Pennsylvania. (28 U.S.C. § 1332(c)(1).)

5. Accordingly, because Plaintiff is not a citizen of the same state as Defendants, the complete diversity requirement is satisfied.

### **AMOUNT IN CONTROVERSY**

6. The \$75,000 amount-in-controversy requirement is readily satisfied. (*See* 28 U.S.C. §§ 1332(a).) As the Supreme Court has recently clarified, a notice of removal to federal court under 28 U.S.C. § 1446(a) need only include a plausible allegation that the amount in controversy exceeds the jurisdictional threshold and need not include actual evidence

establishing that amount. (*See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014).)

7. Here, it is apparent from the face of the Complaint, and the serious injuries alleged, that the amount in controversy in this action exceeds \$75,000.<sup>1</sup> Plaintiff alleges he sustained "multiple and severe injuries to his person." (Ex. A ¶¶14.) Plaintiff Robert Pezzolla claims his injuries required past and future medical attention, impairment of his earning capacity, and caused him to suffer "great pain, suffering, agony, and mental anguish" as well as being "hindered from attending to his daily duties, functions, and occupation (*Id.* ¶¶ 15-19). Plaintiffs seeks a " judgment against the defendants" for "damages, interest, attorney's fees, costs of suit, and such other relief as the Court may deem proper. (*id.*, unnumbered "Wherefore" paragraph at the end of Count One), all of which are properly included in the amount in controversy. Where, as here, Plaintiffs allege serious bodily injuries and/or chronic or permanent medical conditions, courts have readily found that the amount-in-controversy requirement is satisfied. (*See Montilus v. Munoz*, Civil Action No. 09-4143 (SRC), 2009 WL 3246609, at \*2 (D.N.J. Oct. 6, 2009); *Raspa v. Home Depot*, 533 F. Supp. 2d 514, 522 (D.N.J. 2007); *Kolokowski v. Crown Equip. Corp.*, No. Civ.A.05-4257, 2005 WL 3320777, at \*3 (D.N.J. Dec. 6, 2005).) Accordingly, it is evident from the face of the Complaint that the amount in controversy exceeds \$75,000.

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<sup>1</sup> Defendant does not, however, concede that Plaintiffs would be entitled to any of the relief sought in the Complaint. (*See Kelderman v. Remington Arms Co.*, 734 F. Supp. 1527, 1528 (S.D. Iowa 1990) (rejecting a plaintiff's attempt to "place [a] defendant in the awkward position of embracing a concession on the important issue of damages," to establish jurisdiction, noting that a "defendant need not go that far").) Indeed, Defendants specifically deny that Plaintiff is entitled to recover any damages.

**REMOVAL PROCEDURES**

8. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed no later than 30 days of service on Defendant A&S Services Group, LLC, who was served on September 25, 2017. Defendant David Sanders was served on October 10, 2017.

9. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other documents on file with the Superior Court of New Jersey for Essex County are attached hereto. (*See Ex. A.*)

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiffs and a copy is being filed with the Clerk of the Court for the Superior Court of New Jersey, Law Division, Essex County.

11. This action, filed in Superior Court of New Jersey Law Division, Essex County, is being removed to the “district and division embracing the place where such action is pending.” (28 U.S.C. § 1441(a).)

12. No Defendant is a citizen of the State of New Jersey, the State where this action was brought. (28 U.S.C. § 1441(b).)

13. Defendant reserves the right to amend or supplement this Notice of Removal.

14. If any question arises as to the propriety of the removal of this action, Defendants request the opportunity to present a brief and request oral argument in support of removal.

WHEREFORE, Defendants respectfully removes this action to this Court from the Superior Court of New Jersey, Law Division, Essex County, pursuant to 28 U.S.C. § 1441.

DATED: October 24, 2017

Respectfully submitted,

By: *s/ Roy Alan Cohen*

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Services Group, LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon counsel for Plaintiff, by Lawyers Service, addressed as follows:

Edward Capozzi, Esq.  
Brach Eichler LLC  
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*Attorneys for Plaintiff*

/s/ Roy Alan Cohen

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